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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/923,737	08/06/2001	Michael C. Fischer	HP-10981124	2129

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HEWLETT-PACKARD COMPANY  
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P.O. Box 272400  
Fort Collins, CO 80527-2400

EXAMINER
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ORTIZ CRIADO, JORGE L

ART UNIT	PAPER NUMBER
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2655

DATE MAILED: 12/05/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/923,737

Applicant(s)

FISCHER ET AL.

Examiner

Jorge L Ortiz-Criado

Art Unit

2655

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_ 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 recites the limitation "the first difference from step step a), the second difference from step b)" in the last two lines the claim. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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2. Claims 1-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Taussig U.S. Patent No. 6,636,467.

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Regarding claim 1, Taussig in discloses a disk-based data storage system, a method for synchronizing newly recorded data with previously recorded data (See col. 2, lines 11-28), comprising:

measuring a first difference between a wobble reference signal and previously recorded data (See col. 2, lines 11-28; col. 5, lines 47-57; Fig. 5-530);

writing test data on a test track to measure a second difference between the wobble reference signal and the test data, the test data written synchronous with a write clock (See col. 5, lines 58-63; Fig. 5-540,542)

determining a delay offset by comparing the first difference and the second difference; and writing new data using the write clock and the delay offset such that the new data is synchronized with the previously recorded data (See col. 5, line 64 to col. 6 line 21; Fig. 5-544,546,548,550).

Regarding claim 2, Taussig discloses writing the test data to the test track (See col. 5, lines 58-63; Fig. 5-540,542)

with the delay offset set to zero (See col. 5, lines 36-45);

reading the test data from the test track; subtracting the first difference from the second difference to determine the delay offset for the write clock calibration delay (See col. 5, line 58 to col. 6 line 21; Fig. 5-544,546,548,550)

Regarding claim 3, Taussig discloses inserting the delay offset into a wobble-to-laser path to cause the new data to have a same epoch as the previously recorded data (See col. 5, line 64 to col. 6 line 21; Fig. 5-548).

Regarding claim 4, Taussig discloses the step of checking whether an error value is within predetermined limits, wherein the error value is the difference between the first difference from step a) and the second difference from step b) (See col. 5, line 64 to col. 6 line 21; Fig. 5-544,546,548,550).

Note regarding claim 4: The examiner interpretation of step a) is “measuring a first difference between a wobble reference signal and previously recorded data” and the interpretation of step b) is “writing test data on a test track to measure a second difference between the wobble reference signal and the test data, the test data written synchronous with a write clock”, because claim 1 does not provide the recited steps a) and b)).

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Regarding claim 5, Taussig discloses adjusting the write clock in accordance with the error value, if the error value is outside the predetermined limits (See col. 5, line 64 to col. 6 line 21; Fig. 5-548).

Regarding claims 6-10, Method claims 1-5 are drawn to the method of using the corresponding storage system claims 6-10. Therefore method claims 1-5 correspond to storage system claims 6-10 and are rejected for the same reasons of anticipation as outlined above.

Regarding claim 11-15, Method claims 1-5 are drawn to the method of using the corresponding apparatus claims 11-15. Therefore method claims 1-5 correspond to apparatus claims 11-15 and are rejected for the same reasons of anticipation as outlined above.

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. U.S. Patent No. 6,445,656 to Koide, which discloses a method for synchronizing newly recorded data with previously recorded data using a wobble reference signal, previously recorded data signal and the write clock signal.

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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jorge L Ortiz-Criado whose telephone number is (703) 305-8323. The examiner can normally be reached on Mon.-Thu.(8:30 am - 6:00 pm), Alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doris H To can be reached on (703) 305-4827. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-6743.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

joc

  
DORIS H. TO 12/1/03  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600